

Gazette

The Registration Committee of The Association of Professional Engineers Ontario
In the Matter of a Hearing under the Professional Engineers Act, R.S.O. 1990, Chapter P.28.
And in the Matter of the Proposal of the Registrar to Refuse to Issue a License to

An Applicant

Decision and Reasons

The Registration Committee of the Association of Professional Engineers of Ontario (PEO) met in the offices of the PEO, 25 Sheppard Avenue West, Suite 1000, North York, Ontario, on Wednesday, July 17, 1996 at the request of the applicant with respect to the matter of a proposal by the Registrar of the PEO to refuse to issue him a licence.

Legal counsel appeared on behalf of the Registrar. The applicant was also represented by legal counsel.

Legal counsel for the Registrar filed as an exhibit, a Notice of Hearing, which the applicant confirmed that he received, which indicated that the Registrar proposed to refuse to issue a licence to him, based on the grounds that in his application for a licence to PEO, he did not answer a question asking if he had been a member of a professional engineering body in another country, falsely

answered "no" to a question asking if he had ever been refused membership by another association, and during an interview before PEO's Experience Requirements Committee falsely claimed professional engineer status in Texas.

Legal counsel for the Registrar informed the Committee that the applicant had agreed as facts the following paragraphs in the Notice of Hearing:

1. He made application to PEO for a licence by application dated November 3, 1991.
2. In his application, he did not answer question five in the "Professional" section as to whether he had been a member of a professional engineering body in another country. He responded "no" to question six, which asks in part, if he had ever been refused membership by another association.
3. His application was

referred to the Academic Requirements Committee (ARC) for assessment. The ARC determined that he did not meet the necessary academic requirements and assigned seven exams for him to pass.

4. On March 20, 1992 the Experience Requirements Committee (ARC) of PEO wrote to the applicant that it had reviewed his file and determined that his experience did not warrant granting him relief from the seven exams set by the ARC.

5. During PEO's May 1993 examination session, the applicant wrote two of the seven exams set by the ARC, failing both with grades of 18% and 30% respectively.

6. On or about October 12, and November 12, 1993, he wrote to the PEO requesting to be allowed to take university courses in lieu of exams.

7. On December 3, 1993, the PEO advised him that the ARC had approved the courses in lieu that he planned to take at the University of Waterloo and McMaster University.

8. During 1994, he completed

two of the seven exams set by the ARC via the courses in lieu.

9. On June 29, 1994, he was advised that he would be interviewed by the ERC to determine how his experience should be taken into account with regard to his remaining exams.

10. During a meeting required by the ERC on July 19, 1995, he submitted a resume which stated that he was a member of ASME and a PE in Texas.

The applicant did not agree to paragraph 11, which stated that during the course of the same meeting, he had confirmed to the Deputy Registrar of Admissions, PEO, that he had professional engineering status in Texas, having completed both of the necessary sets of exams required for licensure in that state.

12. In fact, as PEO learned on or shortly after July 21, 1995, he was not registered as a professional engineer (PE) in

Texas, having taken the "Fundamentals" examination required in Texas on two occasions and failing both times.

13. By letter dated August 3, 1995, the Deputy Registrar advised the applicant that contrary to what he had said during the course of the July 19, 1995, meeting, PEO had learned that in fact, he is registered in Texas and he had twice failed the "Fundamentals" examination there. The Deputy Registrar advised the applicant that PEO saw his false representation during the interview as evidence of lack of good character and might constitute grounds for withdrawal of his application for licensure. However, before such a decision was made, he was providing him with an opportunity to explain his actions in writing.

14. By letter dated August 21, 1995, the applicant responded to the Deputy Registrar's letter attributing his misrepresentation to a misunderstanding, and advising that his resume contained an incorrect entry concerning his status in Texas as a result of the fact that he was "rushed" and therefore did not complete the entry to clarify that in fact his application in Texas was in progress.

15. By letter dated October 26, 1995, the Registrar of the PEO advised the applicant that she proposed to refuse to issue a licence to him for the reason that his explanation of his conduct was unsatisfactory and that there remained grounds for the belief that

he would not engage in the practice of professional engineering in accordance with the law and with honesty and integrity pursuant to Section 14(2) of the Professional Engineers Act, R.S.O. 1990 Chapter P.28.

Legal counsel for the Registrar called the Deputy Registrar of Admissions, PEO, as a witness. He testified that the applicant's completion of the Texas examination program was not necessarily sufficient for the ARC to completely absolve him from being assigned further PEO examinations. He outlined that the meeting of July 19, 1995, with the applicant was delayed for one year as PEO was unable to locate him after he left his previous employer. The Deputy Registrar referred to hand-written notes made at the July 19, 1995, meeting, which were entered as an exhibit. He testified that the applicant distributed his resume to the ERC late in the interview. He noted that the resume claimed that the applicant was a PE in Texas, and he questioned the applicant as to whether he completed both of the series of exams. The applicant's answer was that both series had been completed and that he had PE status in Texas. The Texas State Board of Licensure subsequently advised the Deputy Registrar that the applicant had twice failed the "Fundamentals" examination.

Under cross-

examination from the applicant's legal counsel, he testified that he could not recall meeting the applicant following the applicant's application of November 1, 1991, and did not make notes at the time.

The applicant gave evidence on his own behalf and testified that he came to the United States in 1971 from Iran. He graduated from high school, attended English language school, and studied chemistry and mechanics in Texas in 1978. He returned to Iran to teach technical subjects. He returned to the United States in 1987, came to Canada in 1989, where he worked with Polysar in Windsor. Layoffs forced him to return to Texas, but his wife, a Canadian citizen, remained in Canada. He produced letters of reference from two professional engineers in Ontario, and one from the Chairman of the Speech Department of Odessa College, Texas.

When questioned by his legal counsel as to the answer on his application form, the applicant stated his failure to answer question number five was an oversight, and the answer would have been "no". He claimed that no person from PEO contacted him concerning failure to answer the question prior to his receiving the Notice of Hearing. The applicant explained that a member of PEO staff asked him to resubmit a resume in a revised format about two weeks before the ERC meeting. He did not print it until his return to Canada. The resume he used stated: "PE of Texas in progress" and because of difficulties in printing, he did not check the resume before coming to the ERC meeting. He recalled meeting the

Deputy Registrar at the ERC meeting.

He provided the Deputy Registrar with copies of the resume at the beginning of the meeting. His intention was to tell the Deputy Registrar that he had written the "Fundamentals" in Texas, and of the two exams he thought he had passed one. He could not recall specifically what he told the Deputy Registrar. The mistake in his first resume came to his attention when his wife read it to him over the telephone on August 3, 1995, following the July 19, 1995 meeting.

He then wrote his explanatory letter of August 21, 1995, which included a corrected resume noting: "PE of Texas in progress."

Legal counsel for the Registrar cross-examined the applicant. The applicant agreed that the revised resume forwarded to PEO on August 21, 1995 was based on the previous resume submitted July 19, 1995. The applicant testified that he had plenty of time to prepare his presentation to the ERC meeting on July 19, 1995.

The applicant explained that the mistake on his resume occurred in re-typing. After the words "PE in Texas," he forgot to type the words, "in progress."

Legal counsel questioned the applicant regarding his resume, which stated he was an engineer in Iran. He explained that as a graduate of the University of Iran, he was able to practice in Iran, whereas in Canada he must first become registered. He was not sure, however,

whether he was licensed as a professional engineer in Iran. In response to a Committee member's question, he did not know whether Iran recognized a United States' university degree in Iran. Legal counsel questioned the applicant on his PEO examination attempts in April 1994, October 1994 and April 1995. The applicant explained that after dealing with problems for such a long time, it was difficult for him to remember the academic material. He agreed that his statement of April 10, 1992, to PEO that the ARC was too busy to properly consider what he thought was an accredited U.S. university was improper. Referring to the Deputy Registrar's question about his status as a PE in Texas on July 19, 1995, the applicant claimed that if he implied that he had passed the Texas exam, he would admit being in error. Legal counsel questioned the applicant on the fact that it appeared that the Texas State Board of Registration for Professional Engineers informed the applicant, on June 8, 1995, that his grade of 68% on the "Fundamentals" exam written April 8, 1995, was not a passing score, and that 70% was required, whereupon he claimed that he was not aware of this result on July 19, 1995, at his meeting with the ERC.

Following submissions from legal counsel concerning the disposition of this matter, the Committee retired to consider the evidence and exhibits.

In reviewing the evidence produced and the

exhibits filed, the Committee finds that the applicant misrepresented his qualifications; that the matters brought before the Committee were not isolated incidents and that the applicant made statements in an unprofessional manner on more than one occasion.

The Committee considered that the applicant should have answered "yes" to question number five on his PEO application of indeed he considered himself to be licensed as a professional engineer in Iran. The Committee is further concerned that the timing of the notice received but the applicant that he failed his second "Fundamentals" examination in Texas suggested that he knew of this result before he attended the ERC meeting in July of 1995.

The Committee also wishes to express its concern and displeasure at the apparent lack of accuracy and consistency in all submissions.

However, in considering all of the circumstances, the Committee directs that the application for licensure by the applicant be permitted to proceed subject to the following condition:

- 1. The applicant complete, to the Registrar's satisfaction, an approved course in ethics, prior to any further action being taken on his application.**
- 2. The applicant present a current and accurate resume for submission to and review by the PEO's Academics**

Requirements Committee (ARC).

3. Following completion of the ethics course and resume, the normal processing for his application may proceed, which would include compliance by the applicant with the requirements of the ARC based on revised information placed before them, and the writing and passing of the Professional Practice Examination.

The details of these proceedings are to be published in full in the Gazette without names.

Dated at Toronto this 25th day of November 1996
Geoff T.G. Scott, P.Eng. (Chair)

For and on behalf of the Registration Committee:

June Hannah, SMP
Keitha JE Buckingham,
P.Eng. John B. Wilkes,
P.Eng.